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Message Text

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ORIGIN EB-07

INFO OCT-01 AF-08 ARA-06 EA-07 EUR-12 NEA-10 IO-13 ISO-00
FEA-01 AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00 FRB-03
H-01 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01
AID-05 CIEP-01 SS-15 STR-04 ITC-01 TRSE-00 USIA-06
PRS-01 SP-02 OMB-01 OES-06 EPA-01 /138 R

DRAFTED BY EB/IFD:EHPREEG:JMR
APPROVED BY EB/IFD:EHPREEG
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L/EB:BOND
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FM SECSTATE WASHDC
TO USMISSION USUN NEW YORK
INFO ALL OECD CAPITALS
USMISSION GENEVA
AMEMBASSY NEW DELHI
AMEMBASSY LAGOS
AMEMBASSY CARACAS
AMEMBASSY MEXICO
AMEMBASSY LIMA
AMEMBASSY ALGIERS
AMEMBASSY BRASILIA
AMEMBASSY QUITO
AMEMBASSY TEHRAN

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E.O. 11652: N/A

TAGS: EGEN, ECOSOC, EINV

SUBJECT: UN WORKING GROUP ON CODE OF CONDUCT FOR TRANS-
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NATIONAL CORPORATIONS: JANUARY 10-14 MEETING

1. SUMMARY. FIRST MEETING OF WORKING GROUP ON CODE OF CONDUCT FOR TNCS PROCEEDED IN NON-POLEMICAL WORKMANLIKE FASHION UNDER STRONG AND BALANCED CHAIRMANSHIP OF NIKLASSON (SWEDEN). ALTHOUGH LARGELY ORGANIZATIONAL, G-77 DID PUSH SEVERAL SUBSTANTIVE ISSUES, INCLUDING PRINCIPLE OF PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES, DELETION OF GOVERNMENT POLICY ISSUES FROM CODE EXERCISE, AND GENERAL OBJECTIVE OF FOCUSING CODE ON GENERAL PRINCIPLES EXCORIA-

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TING TNC BEHAVIOR. FINAL RESULT WAS REASONABLY NEUTRAL LIST OF ISSUES AS BASIS FOR NEXT MEETING DELIBERATIONS, BUT WITH OPTIONS LEFT OPEN TO ALL PARTICIPANTS TO INCLUDE ADDITIONAL ISSUES. PARALLEL TREATMENT IS GIVEN IN WORK OUTLINE TO CODE FOR TNC ACTIVITIES AND TO GOVERNMENT POLICIES. PERMANENT SOVEREIGNTY ISSUE WAS SUBSUMED UNDER MORE NEUTRAL HEADING OF RESPECT FOR NATIONAL SOVEREIGNTY (WITH CLEAR UNDERSTANDING THAT DEVELOPED COUNTRIES WILL RAISE ISSUE OF RESPECT FOR INTERNATIONAL LAW UNDER SAME HEADING). THERE WAS AGREEMENT THAT LEGAL CHARACTER AND IMPLEMENTATION BE LEFT FOR LATER STAGE AND NEXT MEETING CONCENTRATE ON SUBSTANTIVE ISSUES. SELECTION OF GROUP OF PRIVATE PERSONS TO

ADVISE WORKING GROUP WAS POSTPONED PENDING CONSULTATIONS WITH CAPITALS. AT REQUEST OF INDIA AND OTHER LDCS, NEXT SESSION OF WORKING GROUP POSTPONED TO APRIL 18-22 AND LINKED TO SPRING SESSION OF TNC COMMISSION. END SUMMARY

2. WORK AGENDA. BULK OF MEETING WAS TAKEN UP WITH NEGOTIATION OF A WORK AGENDA OF MAJOR ISSUES. THE STARTING POINT WAS THE SUBJECT HEADINGS IN THE SECRETARIAT DOCUMENT E/C.10/18 SUMMARIZING VARIOUS GROUP POSITIONS ON MAJOR ISSUES. G-77 PUSHED HARD FOR (L) A SEPARATE LISTING OF "POLITICAL PRINCIPLES" CONCERNING TNC BEHAVIOR PHRASED SO AS TO TILT IN THE DIRECTION OF G-77 POSITIONS, (2) AN EXPLICIT SUBJECT HEADING ON "PERMANENT SOVEREIGNTY OVER
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NATURAL RESOURCES," AND (3) EXCLUSION OF A SEPARATE HEADING RELATED TO GOVERNMENT POLICIES. AFTER LENGTHY DISCUSSIONS THROUGH WEDNESDAY AND THURSDAY IN SMALL CONTACT GROUP, CHAIRMAN PUT FORWARD COMPROMISE PAPER AGREED BY G-77 REPS IN CONTACT GROUP,BUT WHICH IN EFFECT EXCLUDED ALL THREE LDC POINTS. HOWEVER, G-77 CAUCUS, WITH MAJOR IMPULSE FROM LATIN AMERICAN GROUP, REJECTED THE CHAIRMAN'S PAPER, AND PUSHED AGAIN FOR INSERTION OF PERMANENT SOVEREIGNTY ITEM AND EXCLUSION OF REFERENCE TO GOVERNMENT POLICIES. FINAL SESSIONS FRIDAY MORNING AND AFTERNOON WORKED OUT RESOLUTION WITH ONLY SLIGHT GESTURE TO G-77, BUT WITH THE UNDERSTANDIN THAT G-77 WOULD RAISE PERMANENT SOVEREIGNTY ISSUE AT NEXT MEETING. US REP (PREEG) WITH STRONG SUPPORT FROM FRG,UK, AND OTHER DEVELOPED COUNTRIES NOTED FOR RECORD THAT WE WOULD RAISE ISSUE OF RESPECT FOR INTERNATIONAL LAW AND INTERNATIONAL AGREEMENTS IN SAME CONTEXT. FOLLOWING IS AGREED WORKING AGENDA:

LIST OF MAJOR PRINCIPLES AND ISSUES TO BE CONSIDERED IN AN OUTLINE OF A CODE OF CONDUCT.

I. PREAMBLE
II. DEFINITIONS

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III. MAJOR PRINCIPLES AND/OR ISSUES RELATED TO THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS

A. GENERAL AND POLITICAL
1. RESPECT FOR NATIONAL SOVEREIGNTY AND OBSERVANCE OF DOMESTIC LAWS
2. ADHERENCE TO ECONOMIC GOALS AND DEVELOPMENT OBJECTIVES
3. ADHERENCE TO SOCIO-CULTURAL OBJECTIVES AND VALUES
4. RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
5. NON-INTERFERENCE IN INTERNAL POLITICAL AFFAIRS
6. NON-INTERFERENCE IN INTERGOVERNMENTAL RELATIONS
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7. ABSTENTION FROM CORRUPT PRACTICES

B. ECONOMIC, FINANCIAL AND SOCIAL

1. OWNERSHIP AND CONTROL
2. BALANCE OF PAYMENTS AND FINANCING
3. TRANSFER PRICING
4. TAXATION
5. COMPETITION AND RESTRICTIVE BUSINESS PRACTICES
6. TRANSFER OF TECHNOLOGY
7. EMPLOYMENT AND LABOUR
8. CONSUMER PROTECTION
9. ENVIRONMENTAL PROTECTION

C. DISCLOSURE OF INFORMATION BY TRANSNATIONAL CORPORATIONS ON THEIR ACTIVITIES

IV. PRINCIPLES AND/OR ISSUES RELATING TO THE TREATMENT OF TRANSNATIONAL CORPORATIONS

A. GENERAL TREATMENT OF TRANSNATIONAL CORPORATIONS BY HOME AND HOST COUNTRIES
B. NATIONALIZATION AND COMPENSATION
C. JURISDICTION

V. LEGAL NATURE AND SCOPE OF THE CODE

VI. IMPLEMENTATION

3. WORKING AGENDA MEETS DEVELOPED COUNTRIES OBJECTIVES REASONABLY WELL. THERE IS NO DISTINCTION BETWEEN PRINCIPLES AND ISSUES AT THIS POINT, WITH FORMULATION FOR ALL HEADINGS AS "PRINCIPLES AND/OR ISSUES". THE ISSUE HEADINGS ARE FOR THE MOST PART IN NEUTRAL FORM, AND DEVELOPED COUNTRY REPS MADE NUMEROUS STATEMENTS OF UNDERSTANDING ON SOME ITEMS. (FOR EXAMPLE, UNDER III A.5 & 6,

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"NON-INTERFERENCE," WILL BE APPROACHED BY DEVELOPED COUNTRIES IN TERMS OF WHAT IS PROPER AND IMPROPER INVOLVEMENT OF TNCS, AND THIS CONCEPT WAS ACKNOWLEDGED BY SEVERAL LDCS.) THERE IS STRICT PARALLELISM BETWEEN THE SECTION ON ISSUES RELATED TO TNC ACTIVITIES AND SECTION IV RELATED TO GOVERNMENT TREATMENT OF TNCS (ALTHOUGH EXPLICIT REFERENCE TO GOVERNMENT POLICIES WAS REFORMULATED IN TERMS OF TREATMENT BY HOME AND HOST COUNTRIES). SEVERAL DEVELOPED COUNTRIES ALSO STATED INTENT TO RAISE THE ISSUE OF INVESTMENT CLIMATE UNDER ITEM IV, WHICH WAS NOT REFUTED BY G-77. THERE WAS GENERAL AGREEMENT THAT DIFFERENCES OF VIEW EXIST REGARDING LEGAL NATURE OF THE CODE AND PARTS V AND VI WILL BE LEFT FOR LATER POINT. IN ANY EVENT, HEADNOTE TO DOCUMENT LEAVES OPTIONS OPEN FOR ALL PARTICIPANTS WITH RESPECT TO ADDING OR SUBTRACTING

ISSUES. HEADNOTE READS: "DOCUMENT PREPARED BY THE CHAIRMAN OF THE INTERGOVERNMENTAL WORKING GROUP ON A CODE OF CONDUCT. THE OBJECTIVES OF THIS WORKING PAPER ARE TO ASSIST THE WORKING GROUP IN ORGANIZING ITS WORK AT ITS NEXT SESSION AND TO FOCUS THE ATTENTION OF THE WORKING GROUP ON MAJOR PRINCIPLES AND ISSUES TO BE DISCUSSED IN THE PROCESS OF FORMULATING AN ANNOTATED OUTLINE OF A CODE OF CONDUCT. THE WORKING PAPER DOES NOT REPRESENT AN AGREED OUTLINE OF A CODE OF CONDUCT. THE ENUMERATION OF HEADINGS AND ITEMS IN THIS WORKING PAPER IS NOT EXHAUSTIVE. THE SUBSTANTIVE DISCUSSION ON THE INCLUSION AND FORMULATION OF THE ISSUES TO BE COVERED BY THE ANNOTATED OUTLINE IS EXPECTED TO TAKE PLACE AT THE NEXT SESSION OF THE WORKING GROUP. THE WORKING PAPER DOES NOT PREJUDICE THE POSITIONS WHICH MIGHT BE TAKEN BY DELEGATIONS IN FURTHER DISCUSSIONS."

4. SELECTION OF GROUP OF PRIVATE PERSONS. EXECUTIVE DIRECTOR SAHLGREN CIRCULATED A LIST OF 19 NAMES AS A PROPOSED GROUP OF SO-CALLED PROFOUND PERSONS TO ADVISE

THE WORKING GROUP AND COMMISSION. SEVERAL LDCS EITHER HAD RECOMMENDATIONS FOR ADDITONAL NAMES OR RESERVATIONS DUE TO LACK OF INSTRUCTIONS. THERE WAS GENERAL G-77 VIEW THAT LIST DID NOT HAVE HIGH ENOUGH PROPORTION OF LDC PERSONS. US PRESSED FOR INCLUSION OF LDC PRIVATE BUSINESSMEN ON LIST, AS WELL AS REDUCTION IN SIZE TO 15 MEMBERS, AS MANDATED BY THE COMMISSION. FINAL EFFORT BY SAHLGREN WAS REVISED LIST OF 15 MEMBERS, CIRCULATED TO GOVERNMENTS

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WITH A DEADLINE OF FEBRUARY 2 TO ACCEPT LIST OR MAKE SUG-
GESTIONS FOR CHANGE. SINCE THIS LIST STILL CONTAINS 7/7
BALANCE BETWEEN DCS AND LDCS (PLUS ONE SOVIET), THERE IS
LIKELY TO BE A FEW ADDITIONAL LDC NAMES PUT FORWARD. WE
RECEIVED ASSURANCE THAT A PRIVATE BUSINESSMAN FROM AFRICA
WOULD BE ONE SUCH PROPOSED ADDITION. WORKING GROUP DID
AGREE ON MODALITIES FOR PARTICIPATION OF THESE PERSONS,
WHICH WOULD LIMIT TO CERTAIN ALLOTTED PERIODS THEIR RIGHT
TO MAKE STATEMENTS, AND WOULD MAKE CLEAR THAT THEY
PARTICIPATE AS INDIVIDUALS AND NOT AS A GROUP SEEKING
SOME FORM OF CONSENSUS.

5. SCHEDULE FOR FUTURE MEETINGS. INDIAN REP (BHATT)
MADE PROLONGED EFFORT TO POSTPONE LATE FEBRUARY MEETING
AND FINALLY OBTAINED G-77 SUPPORT. DEVELOPED COUNTRIES
AGREED BUT INSISTED THAT WORKING GROUP MEETING NOT DIS-
PLACE APRIL TNC COMMISSION MEETING AS PROPOSED BY CHAIR
(WHICH WOULD HAVE ALLOTTED ONE DAY RUBBER STAMP SESSION
FOR OTHER COMMISSION ACTIVITIES). AFTER HIGHLY COMPLEX
DEBATE ABOUT OTHER COMPETING EVENTS ON 1977 CALENDAR,
FINAL AGREEMENT REACHED TO EXTEND TWO WEEK PERIOD APRIL 25

MAY 6 SCHEDULED FOR COMMISSION MEETING TO THREE WEEKS
BEGINNING APRIL 18. WORKING GROUP WOULD TAKE UP FIRST

WEEK TO WEEK AND A HALF, LEAVING COMMISSION REMAINING
PART OF THREE WEEK PERIOD.

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6. COMMENT. WORKING GROUP SESSION WAS WORKMANLIKE AND
NON-POLEMICAL FROM THE START. ONLY POLITICAL SPEECH WAS
LENGTHY ATTACK ON TNCS BY SOVIET REP WHICH WAS A BORE
TO ALMOST EVERYONE. DEVELOPED COUNTRY COLLABORATION WAS
CLOSE AND EFFECTIVE, WITH STRONG PARTICIPATION BY FRG
(JAHN), THE UK (MUELLER), CANADA(THOMSON) AND NETHERLANDS
(SANDERS). FRENCH AND JAPANESE IN CONTRAST WERE PRESENT
BUT VIRTUALLY SILENT THROUGHOUT. EC CAUCUS WAS
REPORTEDLY NOT VERY EXCITING BUT THERE APPEARS TO BE
INTEREST BY AT LEAST FRANCE, UK AND COMMISSION TO MAKE
CODE EXERCISE A COMMUNITY MATTER.

7. LDC PARTICIPATION WAS MAINLY FROM RESIDENT UN REPS.
ALTHOUGH HELPFUL MODERATING INFLUENCE CAME FROM ACTIVE
WORK OF IRAN, INDIA AND NIGERIA, THE THRUST OF

HARDLINE G-77 POSITIONS CLEARLY CENTERS ON LATIN AMERICAN
GROUPING, LED BY MEXICO, VENEZUELA, PERU, ECUADOR AND
CUBA. INDIVIDUALLY, MANY LDCS REPS ADMIT TNCS BY AND
LARGE ACT AS GOOD CORPORATE CITIZENS, BUT IN PLENARY THE
LATIN AMERICAN GROUP CONTINUES TO LEAD G-77 ON THE HARD

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LINE.

8. GENERAL FEELING AT END OF MEETING WAS THAT WORKING GROUP WAS OFF TO GOOD START, HAD AVOIDED CONFRONTATION AND HAD PRODUCED REASONABLY NEUTRAL AND USEFUL DOCUMENT TO ORIENT ITS FUTURE WORK. AT SAME TIME, HOWEVER, SEVERAL MAJOR ISSUES OF CONTENTION IN NORTH/SOUTH DIALOGUE, MOST PROMINENTLY PRINCIPLE OF PERMANENT SOVERIGNTY OVER NATURAL RESOURCES, ARE EXPLICITLY OR IMPLICITLY CONTAINED IN SCOPE OF WORK PROGRAM, AND WE SHOULD ANTICIPATE MAJOR OFFENSIVE BY G-77 AT THE NEXT SESSION OF THE WORKING GROUP.
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AMEMBASSY COLOMBO
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AMEMBASSY DACCA
AMEMBASSY DAMASCUS
AMEMBASSY DAR ES SALAAM
AMEMBASSY FREETOWN
AMEMBASSY GABORONE
AMEMBASSY ISLAMABAD
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ALGIERS BRASILIA QUITO TEHRAN DTD 14 JAN

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E.O. 11652: N/A

TAGS: EGEN, ECOSOC, EINV

SUBJECT: UN WORKING GROUP ON CODE OF CONDUCT FOR TRANS-
NATIONAL CORPORATIONS: JANUARY 10-14 MEETING

1. SUMMARY. FIRST MEETING OF WORKING GROUP ON CODE OF
CONDUCT FOR TNCS PROCEEDED IN NON-POLEMICAL WORKMANLIKE
FASHION UNDER STRONG AND BALANCED CHAIRMANSHIP OF
NIKLASSON (SWEDEN). ALTHOUGH LARGELY ORGANIZATIONAL, G-77
DID PUSH SEVERAL SUBSTANTIVE ISSUES, INCLUDING PRINCIPLE OF
PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES, DELETION OF
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OBJECTIVE OF FOCUSING CODE ON GENERAL PRINCIPLES EXCORIA-
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OF ISSUES AS BASIS FOR NEXT MEETING DELIBERATIONS, BUT WITH
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OPTIONS LEFT OPEN TO ALL PARTICIPANTS TO INCLUDE ADDITIONAL
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CODE FOR TNC ACTIVITIES AND TO GOVERNMENT POLICIES. PERMA-
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STANDING THAT DEVELOPED COUNTRIES WILL RAISE ISSUE OF
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WAS AGREEMENT THAT LEGAL CHARACTER AND IMPLEMENTATION BE LEFT FOR LATER STAGE AND NEXT MEETING CONCENTRATE ON SUBSTANTIVE ISSUES. SELECTION OF GROUP OF PRIVATE PERSONS TO

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2. WORK AGENDA. BULK OF MEETING WAS TAKEN UP WITH NEGOTIATION OF A WORK AGENDA OF MAJOR ISSUES. THE STARTING POINT WAS THE SUBJECT HEADINGS IN THE SECRETARIAT DOCUMENT E/C.10/18 SUMMARIZING VARIOUS GROUP POSITIONS ON MAJOR ISSUES. G-77 PUSHED HARD FOR (L) A SEPARATE LISTING OF "POLITICAL PRINCIPLES" CONCERNING TNC BEHAVIOR PHRASED SO AS TO TILT IN THE DIRECTION OF G-77 POSITIONS, (2) AN EXPLICIT SUBJECT HEADING ON "PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES," AND (3) EXCLUSION OF A SEPARATE HEADING RELATED TO GOVERNMENT POLICIES. AFTER LENGTHY DISCUSSIONS THROUGH WEDNESDAY AND THURSDAY IN SMALL CONTACT GROUP, CHAIRMAN PUT FORWARD COMPROMISE PAPER AGREED BY G-77 REPS IN CONTACT GROUP,BUT WHICH IN EFFECT EXCLUDED ALL THREE LDC POINTS. HOWEVER, G-77 CAUCUS, WITH MAJOR IMPULSE FROM LATIN AMERICAN GROUP, REJECTED THE CHAIRMAN'S PAPER, AND PUSHED AGAIN FOR INSERTION OF PERMANENT SOVEREIGNTY ITEM AND EXCLUSION OF REFERENCE TO GOVERNMENT POLICIES. FINAL SESSIONS FRIDAY MORNING AND AFTERNOON WORKED OUT RESOLUTION WITH ONLY SLIGHT GESTURE TO G-77, BUT WITH THE UNDERSTANDIN THAT G-77 WOULD RAISE PERMANENT SOVEREIGNTY ISSUE AT NEXT
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LIST OF MAJOR PRINCIPLES AND ISSUES TO BE CONSIDERED IN AN OUTLINE OF A CODE OF CONDUCT.

I. PREAMBLE
II. DEFINITIONS
III. MAJOR PRINCIPLES AND/OR ISSUES RELATED TO THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS

A. GENERAL AND POLITICAL
1. RESPECT FOR NATIONAL SOVEREIGNTY AND OBSERVANCE OF DOMESTIC LAWS
2. ADHERENCE TO ECONOMIC GOALS AND DEVELOPMENT OBJECTIVES
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VALUES
4. RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
5. NON-INTERFERENCE IN INTERNAL POLITICAL AFFAIRS
6. NON-INTERFERENCE IN INTERGOVERNMENTAL RELATIONS
7. ABSTENTION FROM CORRUPT PRACTICES

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C. DISCLOSURE OF INFORMATION BY TRANSNATIONAL CORPORATIONS ON THEIR ACTIVITIES

IV. PRINCIPLES AND/OR ISSUES RELATING TO THE TREATMENT OF TRANSNATIONAL CORPORATIONS

A. GENERAL TREATMENT OF TRANSNATIONAL CORPORATIONS BY HOME AND HOST COUNTRIES
B. NATIONALIZATION AND COMPENSATION
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V. LEGAL NATURE AND SCOPE OF THE CODE

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RAISE THE ISSUE OF INVESTMENT CLIMATE UNDER ITEM IV, WHICH WAS NOT REFUTED BY G-77. THERE WAS GENERAL AGREEMENT THAT DIFFERENCES OF VIEW EXIST REGARDING LEGAL NATURE OF THE
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CODE AND PARTS V AND VI WILL BE LEFT FOR LATER POINT. IN ANY EVENT, HEADNOTE TO DOCUMENT LEAVES OPTIONS OPEN FOR ALL PARTICIPANTS WITH RESPECT TO ADDING OR SUBTRACTING

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4. SELECTION OF GROUP OF PRIVATE PERSONS. EXECUTIVE DIRECTOR SAHLGREN CIRCULATED A LIST OF 19 NAMES AS A PROPOSED GROUP OF SO-CALLED PROFOUND PERSONS TO ADVISE THE WORKING GROUP AND COMMISSION. SEVERAL LDCS EITHER HAD RECOMMENDATIONS FOR ADDITONAL NAMES OR RESERVATIONS DUE TO LACK OF INSTRUCTIONS. THERE WAS GENERAL G-77 VIEW THAT LIST DID NOT HAVE HIGH ENOUGH PROPORTION OF LDC PERSONS. US PRESSED FOR INCLUSION OF LDC PRIVATE BUSINESSMEN ON LIST, AS WELL AS REDUCTION IN SIZE TO 15 MEMBERS, AS MANDATED BY THE COMMISSION. FINAL EFFORT BY SAHLGREN WAS REVISED LIST OF 15 MEMBERS, CIRCULATED TO GOVERNMENTS WITH A DEADLINE OF FEBRUARY 2 TO ACCEPT LIST OR MAKE SUG-GESTIONS FOR CHANGE. SINCE THIS LIST STILL CONTAINS 7/7 BALANCE BETWEEN DCS AND LDCS (PLUS ONE SOVIET), THERE IS LIKELY TO BE A FEW ADDITIONAL LDC NAMES PUT FORWARD. WE
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RECEIVED ASSURANCE THAT A PRIVATE BUSINESSMAN FROM AFRICA WOULD BE ONE SUCH PROPOSED ADDITION. WORKING GROUP DID AGREE ON MODALITIES FOR PARTICIPATION OF THESE PERSONS, WHICH WOULD LIMIT TO CERTAIN ALLOTTED PERIODS THEIR RIGHT TO MAKE STATEMENTS, AND WOULD MAKE CLEAR THAT THEY

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PARTICIPATE AS INDIVIDUALS AND NOT AS A GROUP SEEKING
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5. SCHEDULE FOR FUTURE MEETINGS. INDIAN REP (BHATT)
MADE PROLONGED EFFORT TO POSTPONE LATE FEBRUARY MEETING
AND FINALLY OBTAINED G-77 SUPPORT. DEVELOPED COUNTRIES
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PLACE APRIL TNC COMMISSION MEETING AS PROPOSED BY CHAIR
(WHICH WOULD HAVE ALLOTTED ONE DAY RUBBER STAMP SESSION
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DEBATE ABOUT OTHER COMPETING EVENTS ON 1977 CALENDAR,
FINAL AGREEMENT REACHED TO EXTEND TWO WEEK PERIOD APRIL 25

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PART OF THREE WEEK PERIOD.

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NON-POLEMICAL FROM THE START. ONLY POLITICAL SPEECH WAS
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TO ALMOST EVERYONE. DEVELOPED COUNTRY COLLABORATION WAS
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NOTE BY OC/T: POUCHED BAGHDAD, PARAMARIBO.

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SUBJECT: UN WORKING GROUP ON CODE OF CONDUCT FOR TRANS-

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NATIONAL CORPORATIONS: JANUARY 10-14 MEETING

1. SUMMARY. FIRST MEETING OF WORKING GROUP ON CODE OF CONDUCT FOR TNCS PROCEEDED IN NON-POLEMICAL WORKMANLIKE FASHION UNDER STRONG AND BALANCED CHAIRMANSHIP OF NIKLASSON (SWEDEN). ALTHOUGH LARGELY ORGANIZATIONAL, G-77 DID PUSH SEVERAL SUBSTANTIVE ISSUES, INCLUDING PRINCIPLE OF PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES, DELETION OF GOVERNMENT POLICY ISSUES FROM CODE EXERCISE, AND GENERAL OBJECTIVE OF FOCUSING CODE ON GENERAL PRINCIPLES EXCORIATING TNC BEHAVIOR. FINAL RESULT WAS REASONABLY NEUTRAL LIST OF ISSUES AS BASIS FOR NEXT MEETING DELIBERATIONS, BUT WITH OPTIONS LEFT OPEN TO ALL PARTICIPANTS TO INCLUDE ADDITIONAL ISSUES. PARALLEL TREATMENT IS GIVEN IN WORK OUTLINE TO CODE FOR TNC ACTIVITIES AND TO GOVERNMENT POLICIES. PERMANENT SOVEREIGNTY ISSUE WAS SUBSUMED UNDER MORE NEUTRAL HEADING OF RESPECT FOR NATIONAL SOVEREIGNTY (WITH CLEAR UNDERSTANDING THAT DEVELOPED COUNTRIES WILL RAISE ISSUE OF RESPECT FOR INTERNATIONAL LAW UNDER SAME HEADING). THERE WAS AGREEMENT THAT LEGAL CHARACTER AND IMPLEMENTATION BE LEFT FOR LATER STAGE AND NEXT MEETING CONCENTRATE ON SUBSTANTIVE ISSUES. SELECTION OF GROUP OF PRIVATE PERSONS TO

ADVISE WORKING GROUP WAS POSTPONED PENDING CONSULTATIONS WITH CAPITALS. AT REQUEST OF INDIA AND OTHER LDCS, NEXT SESSION OF WORKING GROUP POSTPONED TO APRIL 18-22 AND LINKED TO SPRING SESSION OF TNC COMMISSION. END SUMMARY

2. WORK AGENDA. BULK OF MEETING WAS TAKEN UP WITH NEGOTIATION OF A WORK AGENDA OF MAJOR ISSUES. THE STARTING POINT WAS THE SUBJECT HEADINGS IN THE SECRETARIAT DOCUMENT E/C.10/18 SUMMARIZING VARIOUS GROUP POSITIONS ON MAJOR ISSUES. G-77 PUSHED HARD FOR (L) A SEPARATE LISTING OF "POLITICAL PRINCIPLES" CONCERNING TNC BEHAVIOR PHRASED SO AS TO TILT IN THE DIRECTION OF G-77 POSITIONS, (2) AN
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EXPLICIT SUBJECT HEADING ON "PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES," AND (3) EXCLUSION OF A SEPARATE HEADING RELATED TO GOVERNMENT POLICIES. AFTER LENGTHY DISCUSSIONS THROUGH WEDNESDAY AND THURSDAY IN SMALL CONTACT GROUP, CHAIRMAN PUT FORWARD COMPROMISE PAPER AGREED BY G-77 REPS IN CONTACT GROUP,BUT WHICH IN EFFECT EXCLUDED ALL THREE LDC POINTS. HOWEVER, G-77 CAUCUS, WITH MAJOR IMPULSE FROM LATIN AMERICAN GROUP, REJECTED THE CHAIRMAN'S PAPER, AND PUSHED AGAIN FOR INSERTION OF PERMANENT SOVEREIGNTY ITEM AND EXCLUSION OF REFERENCE TO GOVERNMENT POLICIES. FINAL SESSIONS FRIDAY MORNING AND AFTERNOON WORKED OUT RESOLUTION WITH ONLY SLIGHT GESTURE TO G-77, BUT WITH THE UNDERSTANDIN THAT G-77 WOULD RAISE PERMANENT SOVEREIGNTY ISSUE AT NEXT MEETING. US REP (PREEG) WITH STRONG SUPPORT FROM FRG,UK,

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AND OTHER DEVELOPED COUNTRIES NOTED FOR RECORD THAT WE WOULD RAISE ISSUE OF RESPECT FOR INTERNATIONAL LAW AND INTERNATIONAL AGREEMENTS IN SAME CONTEXT. FOLLOWING IS AGREED WORKING AGENDA:

LIST OF MAJOR PRINCIPLES AND ISSUES TO BE CONSIDERED IN AN OUTLINE OF A CODE OF CONDUCT.

I. PREAMBLE
II. DEFINITIONS
III. MAJOR PRINCIPLES AND/OR ISSUES RELATED TO THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS

A. GENERAL AND POLITICAL
1. RESPECT FOR NATIONAL SOVEREIGNTY AND OBSERVANCE OF DOMESTIC LAWS
2. ADHERENCE TO ECONOMIC GOALS AND DEVELOPMENT OBJECTIVES
3. ADHERENCE TO SOCIO-CULTURAL OBJECTIVES AND VALUES
4. RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
5. NON-INTERFERENCE IN INTERNAL POLITICAL AFFAIRS
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6. NON-INTERFERENCE IN INTERGOVERNMENTAL RELATIONS
7. ABSTENTION FROM CORRUPT PRACTICES

B. ECONOMIC, FINANCIAL AND SOCIAL

1. OWNERSHIP AND CONTROL
2. BALANCE OF PAYMENTS AND FINANCING
3. TRANSFER PRICING
4. TAXATION
5. COMPETITION AND RESTRICTIVE BUSINESS PRACTICES
6. TRANSFER OF TECHNOLOGY
7. EMPLOYMENT AND LABOUR
8. CONSUMER PROTECTION
9. ENVIRONMENTAL PROTECTION

C. DISCLOSURE OF INFORMATION BY TRANSNATIONAL CORPORATIONS ON THEIR ACTIVITIES

IV. PRINCIPLES AND/OR ISSUES RELATING TO THE TREATMENT OF TRANSNATIONAL CORPORATIONS

A. GENERAL TREATMENT OF TRANSNATIONAL CORPORATIONS BY HOME AND HOST COUNTRIES
B. NATIONALIZATION AND COMPENSATION
C. JURISDICTION

V. LEGAL NATURE AND SCOPE OF THE CODE

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VI. IMPLEMENTATION

3. WORKING AGENDA MEETS DEVELOPED COUNTRIES OBJECTIVES REASONABLY WELL. THERE IS NO DISTINCTION BETWEEN PRINCIPLES AND ISSUES AT THIS POINT, WITH FORMULATION FOR ALL HEADINGS AS "PRINCIPLES AND/OR ISSUES". THE ISSUE HEADINGS ARE FOR THE MOST PART IN NEUTRAL FORM, AND DEVELOPED COUNTRY REPS MADE NUMEROUS STATEMENTS OF UNDERSTAND-
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ING ON SOME ITEMS. (FOR EXAMPLE, UNDER III A.5 & 6, "NON-INTERFERENCE," WILL BE APPROACHED BY DEVELOPED COUNTRIES IN TERMS OF WHAT IS PROPER AND IMPROPER INVOLVEMENT OF TNCS, AND THIS CONCEPT WAS ACKNOWLEDGED BY SEVERAL LDCS.) THERE IS STRICT PARALLELISM BETWEEN THE SECTION ON ISSUES RELATED TO TNC ACTIVITIES AND SECTION IV RELATED TO GOVERNMENT TREATMENT OF TNCS (ALTHOUGH EXPLICIT REFERENCE TO GOVERNMENT POLICIES WAS REFORMULATED IN TERMS OF TREATMENT BY HOME AND HOST COUNTRIES). SEVERAL DEVELOPED COUNTRIES ALSO STATED INTENT TO RAISE THE ISSUE OF INVESTMENT CLIMATE UNDER ITEM IV, WHICH WAS NOT REFUTED BY G-77. THERE WAS GENERAL AGREEMENT THAT DIFFERENCES OF VIEW EXIST REGARDING LEGAL NATURE OF THE CODE AND PARTS V AND VI WILL BE LEFT FOR LATER POINT. IN ANY EVENT, HEADNOTE TO DOCUMENT LEAVES OPTIONS OPEN FOR ALL PARTICIPANTS WITH RESPECT TO ADDING OR SUBTRACTING

ISSUES. HEADNOTE READS: "DOCUMENT PREPARED BY THE CHAIRMAN OF THE INTERGOVERNMENTAL WORKING GROUP ON A CODE OF CONDUCT. THE OBJECTIVES OF THIS WORKING PAPER ARE TO ASSIST THE WORKING GROUP IN ORGANIZING ITS WORK AT ITS NEXT SESSION AND TO FOCUS THE ATTENTION OF THE WORKING GROUP ON MAJOR PRINCIPLES AND ISSUES TO BE DISCUSSED IN THE PROCESS OF FORMULATING AN ANNOTATED OUTLINE OF A CODE OF CONDUCT. THE WORKING PAPER DOES NOT REPRESENT AN AGREED OUTLINE OF A CODE OF CONDUCT. THE ENUMERATION OF HEADINGS AND ITEMS IN THIS WORKING PAPER IS NOT EXHAUSTIVE. THE SUBSTANTIVE DISCUSSION ON THE INCLUSION AND FORMULATION OF THE ISSUES TO BE COVERED BY THE ANNOTATED OUTLINE IS EXPECTED TO TAKE PLACE AT THE NEXT SESSION OF THE WORKING GROUP. THE WORKING PAPER DOES NOT PREJUDICE THE POSITIONS WHICH MIGHT BE TAKEN BY DELEGATIONS IN FURTHER DISCUSSIONS."

4. SELECTION OF GROUP OF PRIVATE PERSONS. EXECUTIVE DIRECTOR SAHLGREN CIRCULATED A LIST OF 19 NAMES AS A
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PROPOSED GROUP OF SO-CALLED PROFOUND PERSONS TO ADVISE THE WORKING GROUP AND COMMISSION. SEVERAL LDCS EITHER HAD RECOMMENDATIONS FOR ADDITONAL NAMES OR RESERVATIONS DUE TO LACK OF INSTRUCTIONS. THERE WAS GENERAL G-77 VIEW THAT LIST DID NOT HAVE HIGH ENOUGH PROPORTION OF LDC PERSONS. US PRESSED FOR INCLUSION OF LDC PRIVATE BUSINESSMEN ON LIST, AS WELL AS REDUCTION IN SIZE TO 15 MEMBERS, AS MANDATED BY THE COMMISSION. FINAL EFFORT BY SAHLGREN WAS REVISED LIST OF 15 MEMBERS, CIRCULATED TO GOVERNMENTS WITH A DEADLINE OF FEBRUARY 2 TO ACCEPT LIST OR MAKE SUG-GESTIONS FOR CHANGE. SINCE THIS LIST STILL CONTAINS 7/7 BALANCE BETWEEN DCS AND LDCS (PLUS ONE SOVIET), THERE IS LIKELY TO BE A FEW ADDITIONAL LDC NAMES PUT FORWARD. WE RECEIVED ASSURANCE THAT A PRIVATE BUSINESSMAN FROM AFRICA WOULD BE ONE SUCH PROPOSED ADDITION. WORKING GROUP DID AGREE ON MODALITIES FOR PARTICIPATION OF THESE PERSONS, WHICH WOULD LIMIT TO CERTAIN ALLOTTED PERIODS THEIR RIGHT TO MAKE STATEMENTS, AND WOULD MAKE CLEAR THAT THEY PARTICIPATE AS INDIVIDUALS AND NOT AS A GROUP SEEKING SOME FORM OF CONSENSUS.

5. SCHEDULE FOR FUTURE MEETINGS. INDIAN REP (BHATT) MADE PROLONGED EFFORT TO POSTPONE LATE FEBRUARY MEETING AND FINALLY OBTAINED G-77 SUPPORT. DEVELOPED COUNTRIES AGREED BUT INSISTED THAT WORKING GROUP MEETING NOT DIS-PLACE APRIL TNC COMMISSION MEETING AS PROPOSED BY CHAIR (WHICH WOULD HAVE ALLOTTED ONE DAY RUBBER STAMP SESSION FOR OTHER COMMISSION ACTIVITIES). AFTER HIGHLY COMPLEX DEBATE ABOUT OTHER COMPETING EVENTS ON 1977 CALENDAR, FINAL AGREEMENT REACHED TO EXTEND TWO WEEK PERIOD APRIL 25

MAY 6 SCHEDULED FOR COMMISSION MEETING TO THREE WEEKS BEGINNING APRIL 18. WORKING GROUP WOULD TAKE UP FIRST

WEEK TO WEEK AND A HALF, LEAVING COMMISSION REMAINING PART OF THREE WEEK PERIOD.
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6. COMMENT. WORKING GROUP SESSION WAS WORKMANLIKE AND NON-POLEMICAL FROM THE START. ONLY POLITICAL SPEECH WAS LENGTHY ATTACK ON TNCS BY SOVIET REP WHICH WAS A BORE TO ALMOST EVERYONE. DEVELOPED COUNTRY COLLABORATION WAS CLOSE AND EFFECTIVE, WITH STRONG PARTICIPATION BY FRG (JAHN), THE UK (MUELLER), CANADA(THOMSON) AND NETHERLANDS (SANDERS). FRENCH AND JAPANESE IN CONTRAST WERE PRESENT BUT VIRTUALLY SILENT THROUGHOUT. EC CAUCUS WAS REPORTEDLY NOT VERY EXCITING BUT THERE APPEARS TO BE INTEREST BY AT LEAST FRANCE, UK AND COMMISSION TO MAKE CODE EXERCISE A COMMUNITY MATTER.

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